**THE HON'BLE SRI JUSTICE B.PRAKASH RAO**
**AND**
**THE HON'BLE SRI JUSTICE D.APPA RAO**

**W.A.NO.284 OF 2006**

**JUDGMENT:(PER BPR,J)**

The appellant herein is a bank/the Management who filed this appeal against allowing a writ petition at the instance of the respondent herein, who is an employee of the bank, as per the orders in W.P.No.9486 of 1999 dated 13.07.2005 wherein he successfully sought to assail the impugned orders dated 01.09.1998 rejecting his claim for pension in terms of the Bank Employees (Pension) Regulations, 1993 with all consequential benefits.

Heard both sides.

The facts which are not in dispute are that initially the respondent/writ petitioner was appointed as clerk in the year 1963 and later he was promoted as an officer (Junior Management Grade Scale I) with effect from 1.5.1979. However, while he was working as Accountant at Bellamy Branch, he was placed under suspension and an enquiry was initiated, wherein ultimately he was imposed with a punishment of compulsory retirement from service vide orders dated 28.05.1988, in terms of Regulation 67(f) of the Service Regulations of the Bank. Aggrieved by the same, he preferred an appeal which was rejected by orders dated 1.12.1988 by the appellate authority. Further review petition filed by him was also rejected as per the orders dated 6.6.1989. Challenging the same, he filed W.P.No.4022 of 1990, which was dismissed on 1.9.1994. Further it is stated in the counter affidavit filed in the said writ petition that the petitioner would be entitled for pension, since the punishment imposed on him is compulsory

retirement from service. All the officers, who retired after 1.1.1986, are eligible for pension. However, the said pension would be payable only from 1.11.1993. Therefore, according to the respondent he would be entitled to the said pension as per the scheme introduced in pursuance of the settlement between the Indian Banks' Association and National Level Associations of the employees. The State Bank of Hyderabad approved the pension regulations known as State Bank Employees' (Pension) Regulations, 1993. According to him as per Chapter II(2)(iii) the employees, who have retired on or after 1st January, 1986, but before 1.11.1993 are entitled to apply for the pensionary benefits, subject to the condition of refund of entire contribution of the Provident Fund. Even as per Chapter II (16), the employees, who prematurely retired by the Bank are also entitled to premature retirement pension. Hence later on a clarification has been issued to the effect that one must have minimum service of ten years before the retirement. Since he had requisite length of service, made an application on 27.7.1994 in the prescribed proforma and the same was rejected by proceedings dated 01.09.1998. Hence, the writ by the respondent.

Contesting the claim of the respondent, the objection of the appellant was to the effect that since he was compulsorily retired from service prior to 01.11.1993, he is not eligible for pension, in spite of the settlement and circulars issued. Further it is also their case that the compulsory retirement would not include.

With these and other contentions as sought to be urged from both sides, the learned single Judge did not find favour of the objections raised on behalf of the appellant herein and held that the respondent would be entitled to the extension of the Bank Employees Pension Regulations, 1995 with all the monetary

benefits. Hence, this appeal.

In this appeal, learned counsel appearing on behalf of the appellant strenuously contended that on the facts and circumstances even on a consideration of the said Regulations the claim of the respondent would in no way come nearer. During the course of hearing of this appeal, the Chief Manager of P.P.G. Department filed an additional affidavit dated 17.04.2000 in support of their claim to the affect that since the respondent was compulsorily retired on 28.05.1988 and by that time there was no pension scheme in force to the employees. Since it was introduced only in the year 1995 and was extended to employees who were in service by 1986 and who retired prior to 01.11.1993. Therefore, since the respondent was compulsorily retired from service in the year 1988 is governed by Regulation 3 of the Pension Scheme 1995 and thus the oral submission made would in no way confer any right on the respondent herein.

These submissions were sought to be repelled on behalf of the respondents on the ground that there is no justification in denying the claim of the respondent herein for the said pension. He placed reliance on **A.V.MOHAL v SENIOR SUPERINTENDENT OF POST OFFICE AND OTHERS**[1] and **K.KANDASWAMY v UNION OF INDIA AND ANOTHER**[2] it was held that compulsory retirement would not in any way go against the claim for such pension.

On a consideration of these submissions and on perusal of material on record, the main attack on behalf the appellant is only to compulsory retirement would not have any affect for that of the retirement in normal circumstances and therefore, the respondent cannot be extended such benefit. Even otherwise having regard to

the fact that compulsory retirement is major punishment and therefore, no such claim can be sustainable. However, having regard to the principles laid down in the aforesaid decision (2 supra) relied on by the respondent, it was held that even in a case of like punishment i.e. removing the appellant from service even as a compulsory retirement there cannot be any change and taken into consideration of the facts and circumstances of that case, the Apex Court held that the appellant is entitled to only 20 percent of the arrears of pension. Even in the decision referred 1 supra considering the similar such situation of compulsory retirement in the public interest, it was held that it does not amount to dismissal or removal within Article 311, nor is it a punishment nor does it entail loss of retiral benefits nor is it stigmatic. The object is public interest.

Having regard to the aforesaid principles laid down and especially where nothing has been brought on record to show that the employee would be denied by any such pensionery benefits, we do not find any substance in the submissions made on behalf of the appellant herein. However, admittedly in the present case the respondent has already been given of retiral benefits, Provident fund, Gratuity including the payment of contribution. Therefore, since the respondent has retired in the year 1988, we do not find any merits in the above appeal and the same is accordingly dismissed. In the circumstances no costs.

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**B.PRAKASH RAO,J**

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**D.APPA RAO,J**

**Dated: 10-10-2006**

Kvrm

**THE HON'BLE SRI JUSTICE B.PRAKASH RAO**
**AND**
**THE HON'BLE SRI JUSTICE D.APPA RAO**

**W.A.NO.284 OF 2006**

**(JUDGMENT OF THE DIVISION BENCH DELIVERED BY HON'BLE SRIJUSTICE B.PRAKASH RAO)**

**DATEDI 10-10-2006**

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[1] 1991 SUPP(2) Supreme Court Cases 593

[2] (1995)6 Supreme Court Cases 162